MULTIMEDIA UNIVERSITY

STUDENT ID NO

MULTIMEDIA UNIVERSITY

FINAL EXAMINATION

TRIMESTER 3, 2022/2023

PCL0012 INTRODUCTION TO COMMERCIAL LAW

(All Sections / Groups)

02 OCTOBER 2023

9.00 a.m. - 11.00 a.m.
(2 Hours)

INSTRUCTIONS TO STUDENT

1. This question paper consists of **THREE (3)** printed pages excluding the cover page.

2. It is **COMPULSORY** to answer **ALL** question from Part A and **ONE (1)** questions from Part B.

3. Please write all your answers in theAnswer Booklet provided.

PART A: ANSWER ALL THE QUESTIONS [30 MARKS]

QUESTION 1

"The nemo dat rule embodies the idea that the transferee cannot get a better title to goods than that of his transferor. It thus favours the original owner over the innocent purchaser. However, in order to maintain the balance between the original owner and the innocent purchaser, various exceptions to the nemo dat rule has evolved."

(Ji Lian Yap, *Appraising the Market Overt Exception*, Journal of International Commercial Law and Technology, Vol. 3, Issue 4, 2008)

In view of the above statement, describe the above-mentioned rule and any five (5) exceptions with reference to relevant authorities and examples.

[Total: 30 marks]

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PART B: CHOOSE TWO OUT OF THREE QUESTIONS [70 MARKS]

QUESTION 2

"A partnership is a legal arrangement enabling two or more individuals to collectively assume responsibility for a business."

Based on the statement above, explain the four (4) types of partners and the six (6) ways to dissolve a partnership. Support your answer with relevant provisions under the Partnership Act 1961.

[Total: 35 marks]

QUESTION 3

a) "Per Scrutton LJ's assertion, 'As the underwriter knows nothing and the man who seeks insurance knows everything, it becomes the responsibility of the prospective policyholder, desiring coverage, to provide a complete and unsolicited disclosure of all material circumstances to the underwriters.'

Discuss this statement in relation to the fundamental principle of utmost good faith in insurance contracts. Support your analysis with relevant case law and legal precedents.

[15 marks]

b) Explain the concept of 'insurable interest' and whether 'insurable interest' must exist at the time of the loss and clasify between indemnity and contingency insurance. Support your answer with relevant authorities.

[20 marks]

[Total: 35 marks]

Continued...

QUESTION 4

a) In Marfani & Co Ltd v Midland Bank Ltd,3 Diplock LJ observed that: "A banker's business, of its very nature, exposes him daily to this peril. His contract with his customer requires him to accept possession of cheques delivered to him by his customer, to present them for payment to the banks on which the cheques are drawn, to receive payment of them and to credit the amount thereof to his own customer's account, either on receipt of the cheques themselves from the customer, or on receipt of actual payment of the cheques from the banks on which they are drawn. If the customer is not entitled to the cheque which he delivers to his banker for collection, the banker, however innocent and careful he might have been, would at common law be liable to the true owner of the cheque for the amount of which he receives payment, either as damages for conversion or under the cognate cause of action, based historically on assumpsit, for money had and received."

Using the case mentioned earlier, describe how the paying and collecting bankers are safeguarded. Provide supporting examples from relevant sources.

[20 marks]

b) Discuss the types of cheques which available in Malaysia.

[15 marks]

[Total: 35 marks]

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